

December 23, 2010

Ms. Larissa Guedko  
Director of Engineering / Radio Engineer  
Office of Interoperable and Emergency Communications  
New York State Division of Homeland Security and Emergency Services  
State Office Campus, Bldg. 22  
1220 Washington Avenue  
Albany, New York 12226

Dear Ms. Guedko:

By email of November 15, 2010, you requested a six-month extension of New York State's (NYS) now-expired slow growth authorization for its discontinued 800 MHz statewide system. In that email, you represented:

- That several New York jurisdictions had assigned their 800 MHz licenses for use in the statewide system.
- That you wish to return the licenses to the jurisdictions that assigned them to NYS.
- That before applications can be filed for assignment of the licenses to their original holders, Regional Planning Committee (RPC) approval must be obtained for those licenses that have NPSPAC channels.
- That it will take six months to achieve RPC approval and prepare the assignment applications.
- That once the assignment process is complete, NYS will return to the Commission for cancellation those licenses that were issued directly to NYS for use in the discontinued system, *i.e.*, those licenses that were not obtained by assignment from local jurisdictions.

We hereby grant your request, subject to the following conditions:

- Jurisdictions that obtain licenses by assignment from NYS must complete construction of their authorized facilities within one year of grant of the assignment application by the Commission. Otherwise, the licenses will automatically cancel unless, by that time, the assignee has applied for and received a slow growth authorization. Applications for such slow growth authorizations will be subjected to a high level of scrutiny given the length of time the associated frequencies have remained dormant.
- The NYS licenses that were not acquired from other jurisdictions by assignment, must be tendered to the Commission for cancellation no later than 30 days from the date hereof.<sup>1</sup>
- RPC approval must be obtained, and the assignment applications filed with the Commission, within six months of the date hereof.

Additionally, we note that NYS has pending a request for extension of slow growth authority, submitted in 2009.<sup>2</sup> Because NYS has conceded that the system for which it sought slow growth authority will not be constructed, that request is moot and will be dismissed as such.

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<sup>1</sup> The NYS email does not explain, and we cannot perceive, why it is necessary to await the grant of the assignment applications before the licenses that will not be assigned can be returned to the Commission for cancellation. Accordingly, we require that the latter licenses be returned for cancellation within 30 days.

Accordingly, IT IS ORDERED, that the November 15, 2010 request filed by New York State for an extension of time<sup>3</sup> within which to assign certain 800 MHz licenses and to submit other 800 MHz licenses for cancelation IS GRANTED IN PART subject to the conditions, above.

IT IS FURTHER ORDERED that the Request for Extension of "Slow Growth" Authorizations and Request for Waiver to Extent Required, filed March 16, 2009 by the State of New York, is DISMISSED AS MOOT.

This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

Sincerely,

Michael J. Wilhelm  
Deputy Chief, Policy Division  
Public Safety and Homeland Security Bureau

cc:

Mr. Tracy Simmons  
Chief, Licensing Branch, Policy Division  
Public Safety and Homeland Security Bureau

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Mr. Steven C. Sharpe  
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<sup>2</sup> Request for Extension of "Slow Growth" Authorizations and Request for Waiver to Extent Required, FCC ULS File No. 0003776692 (Mar. 16, 2009).

<sup>3</sup> The NYS email was characterized as a request for additional slow growth authorization. Since, by NYS' admission, its system will not be constructed, it would be inappropriate to grant it additional slow growth authority. We therefore have treated the email as a request for extension of time to keep the subject licenses in force while the tasks described by NYS are being performed.